REMARKS/ARGUMENTS

This Amendment is being filed in response to the third, non-final Official Action of April 15, 2008, and the Notice of Non-Compliant Amendment dated October 15, 2008. Initially, Applicants would like to thank the Examiner and his primary for taking the time to conduct a telephone interview with Applicants' undersigned attorney regarding the Official Action. As to the failure of Applicants in their originally-filed Amendment of June 30, 2008, to include a complete and accurate record of the substance of the aforementioned interview, Applicants note as follows.

In an effort to advance prosecution of the present application, Applicants' undersigned attorney conducted an interview with the Examiner and his supervisor on June 2, 2008, during which Applicants' undersigned attorney explained the claimed invention, cited references and distinctions therebetween. As to one aspect of the claimed invention, reflected for example by independent Claim 1, while the Examiner and his supervisor seemed to appreciate the distinctions between the invention and cited references, they felt that the claims were unclear as to the invention reflected thereby. As to another aspect of the claimed invention, reflected for example by independent Claim 11, the Examiner's supervisor noted that the first and second aspects lacked a common inventive concept, and indicated that the Examiner likely should issue a restriction between the aspects. Otherwise, the Examiner and his supervisor believed the claims to the second aspect could be amended to clarify the relationship between the pre-broadcast content in memory of the terminal, and its access and recording/sending statistics related to its access before broadcast of the corresponding content.

Contrary to assertions made by the Examiner in his Interview Summary of June 4, 2008, and in the aforementioned Notice of Non-Compliant Amendment, although Applicants' undersigned attorney may have directed the Examiner and his supervisor to FIGS. 6 and 7 as reflecting aspects recited by independent Claims 1 and 11, Applicants' undersigned attorney did not in fact indicate during the interview that "claim 1 is essentially same as Fig. 6, and claim 11 Fig. 7 [*sic*]." Applicants' undersigned attorney also did not in fact agree during the interview "that claim 1 and 11 are two different inventions and should be restricted," even if Applicants' undersigned attorney did recognize that Claims 1 and 11 are directed to different aspects of the

claimed invention. Moreover, and in any event, Applicants' undersigned attorney would not have agreed the propriety of a restriction mentioned for the first time during the interview by the Examiner's supervisor, or have agreed to proactively elect a group of claims in response to the present third, non-final Official Action without first having reviewed the substance of a formal restriction entered into the record by the Examiner.

Turning now to the substance of the non-final Official Action of April 15, 2008, the Official Action rejects all of the pending claims, namely Claims 1-6, 8-25, 27-42, 44-59 and 61-70, under 35 U.S.C. § 103(a) as being unpatentable over newly-cited U.S. Patent No. 5,798,785 to Hendricks et al., in view of newly-cited U.S. Patent No. 5,826,168 to Inoue et al. In addition, the Official Action objects to Claim 20 for including an informality in the recitation of "memory." As explained below, however, Applicants respectfully submit that the claimed invention is patentably distinct from Hendricks and Inoue, taken individually or in any proper combination. Applicants have, however, amended independent Claim 20 to recite "a memory" as suggested in the Official Action; and accordingly, applicants respectfully submit that the objection to Claim 20 is overcome. Applicants have also amended various ones of the claims to further clarify the claimed invention. In addition, Applicants have added a new Claim 71 to recite further patentable features of one aspect of the claimed invention. In view of the amendments to the claims, the added claim, and the remarks presented herein, Applicants request reconsideration and allowance of all of the pending claims of the present application.

A. Claims 1-6, 8-10, 20-25, 27, 28, 37-42, 44, 45, 54-59, 61 and 62 are Patentable

The Official Action rejects Claims 1-6, 8-10, 20-25, 27, 28, 37-42, 44, 45, 54-59, 61 and 62 as being unpatentable over Hendricks, in view of Inoue. According to a first aspect of the present invention, as reflected for example by amended independent Claim 1, a system includes a terminal and a destination. The terminal is configured to access one or more pieces of content from a memory of the terminal in an offline manner after receipt of the piece(s) of content, where the access of the piece(s) of content is a trigger to the terminal to obtain its location. Accordingly, the terminal is configured to obtain its location in response to the trigger. The terminal is also configured to store, into a content usage log, one or more content usage statistics

relating to the access of the piece(s) of content from memory. In this regard, one or more content usage statistics comprises the location of the terminal. The destination, then, is configured to receive the content usage log including the content usage statistic(s).

In contrast to amended independent Claim 1, neither Hendricks nor Inoue, taken individually or in any proper combination, teaches or suggests a terminal accessing the content (with which the content usage statistic(s) are related) from memory of the terminal at some point in time after having received the content, that access of content triggering the terminal to obtain its location and store content usage statistic(s) including the location. The Official Action cites Hendricks for allegedly disclosing this feature of independent Claim 1. In this regard, the Official Action cites the four-bit address of a set-top terminal in a polling-request response message (as in FIG. 7b) as allegedly corresponding to the recited terminal location. Even if one could argue that the set-top terminal address of Hendricks corresponds to a location of that terminal (the accuracy of which is expressly not admitted), however, nowhere does Hendricks teach or suggest that its terminal accesses content from memory, and that this access triggers the terminal to obtain its location (address) and store statistics including that location, similar to independent Claim 1 reciting that accessing content from memory triggers the terminal to obtain its location and store statistic(s) including that location.

Hendricks discloses the set-top terminal receiving a polling request message addressed to the terminal, and sending to the requesting headend, a response message including its address and information (program access information) related to the terminal's access of broadcast programs. One may argue that the set-top terminal of Hendricks inherently stores its address in memory (although the accuracy of this argument is expressly not conceded). At best, then, one may argue that Hendricks' set-top terminal may obtain its address (location) from the polling request message or its own memory (for inclusion in the response message). In neither instance, however, does the terminal accessing content from its memory trigger the terminal to obtain its address, similar to independent Claim 1. Rather, in both instances, at best one may argue that the terminal receiving the headend polling request triggers the terminal obtaining its address.

Applicants therefore respectfully submit that amended independent Claim 1, and by dependency Claims 2, 3, 6 and 8-10, is patentably distinct from Hendricks and Inoue, taken

individually or in any proper combination. Applicants submit that amended independent Claims 20, 37 and 54 recite subject matter similar to that of independent Claim 1, including triggering obtaining the location of a terminal or apparatus by accessing content from memory in an offline manner (Claim 20), or memory of the terminal or apparatus in an offline manner (Claims 37 and 54), and storing content usage statistic(s) including the location. Applicants therefore respectfully submit that amended independent Claims 20, 37 and 54, and by dependency Claims 21, 22, 25, 27, 28, 38, 39, 42, 44, 45, 55, 56, 59, 61, 62 and 71, are also patentably distinct from Hendricks and Inoue, taken individually or in any proper combination, for at least the reasons given above with respect to independent Claim 1.

For at least the foregoing reasons, Applicants respectfully submit that the rejection of Claims 1-6, 8-10, 20-25, 27, 28, 37-42, 44, 45, 54-59, 61 and 62 as being unpatentable over Hendricks, in view of Inoue is overcome.

B. Claims 11-19, 29-36, 46-53 and 63-70 are Patentable

The Official Action rejects Claims 11-19, 29-36, 46-53 and 63-70 as being unpatentable over Hendricks, in view of Inoue. According to a second aspect of the present invention, as reflected for example by independent Claim 11, a system again includes a terminal and destination. According to this aspect of the present invention, the terminal is configured to access one or more pieces of content from a memory, where the piece(s) of content comprise one or more pieces of pre-broadcast content related to broadcast content. The terminal is also configured to store, into a content usage log, one or more content usage statistics relating to the terminal accessing the piece(s) of pre-broadcast content. The destination is configured to receive the content usage log including the content usage statistic(s) before the broadcast content is broadcast.

As to independent Claim 11, the Official Action concedes that Hendricks does not teach or suggest pre-broadcast content. Nonetheless, the Official Action alleges that Inoue discloses this feature, and that it would have been obvious to one skilled in the art to modify Hendricks to include the feature. Even considering Inoue, however, Applicants respectfully submit that neither Hendricks nor Inoue, taken individually or in combination, teach or suggest a terminal

accessing pre-broadcast content (including broadcast content) from memory, storing statistics related to that access, and sending those statistics to a destination before the related broadcast content is broadcast.

Applicants note that independent Claim 11 recites accessing pre-broadcast content (including broadcast content) from memory and sending statistics related to that access before the broadcast content is broadcast. Independent Claim 11 therefore inherently requires availability of broadcast content (of the pre-broadcast content) from memory before that broadcast content is broadcast – otherwise, the broadcast content (of the pre-broadcast content) may not be accessed from memory, as explicitly recited. By contrast, Inoue is premised on recording content as that content is broadcast, and therefore does not support availability of broadcast content from memory before its broadcast. Inoue may disclose broadcasting the same content on multiple channels in a time-delayed manner. But even given this feature, no content of Inoue is available from memory before its broadcast since it's by broadcast of the content that the content is recorded and made available in memory.

Moreover, Applicants respectfully submit that to the extent that one may argue (albeit incorrectly) that content broadcast on another channel from which that content is recorded may be interpreted as recording (and thus, making available in memory) content before its broadcast, Applicants respectfully submit that there is no apparent reason why one skilled in the art would modify Hendricks, Inoue or their combination as alleged. The Official Action alleges that one skilled in the art would be motivated to modify Hendricks and Inoue "to try to collect pre-broadcast statistics by receiving content usage statistics before the broadcast content is broadcast, thereby providing useful information about media sampling/promotion." Given that Inoue discloses multiple, partially-overlapping broadcasts of content, however, only a short interval is available between the broadcast of content on multiple channels. Examples according to Inoue include a time delay of fifteen or seventeen minutes for a two-hour broadcast. Thus, according to the asserted modification of Hendricks and Inoue, not only would a user have to access recorded content from memory within this fifteen/seventeen minute window, but that user's terminal would have to send statistics related to that access within that window. Applicants question, however, the extent to which one skilled in the art would have an apparent reason to

modify Hendricks and Inoue to not only presume access of stored content within this short of a window, but also require sending of statistics relating to that access, within that short of a window, particularly given that the destination would likely not realize any benefit from receiving such statistics before the next broadcast of the content.

Applicants therefore respectfully submit that independent Claim 11, and by dependency Claims 12-19, is patentably distinct from Hendricks and Inoue, taken individually or in any proper combination. Applicants submit that independent Claims 29, 46 and 63 recite subject matter similar to that of independent Claim 11, including storing, into a content usage log, content usage statistics relating to accessing piece(s) of pre-broadcast content from memory; and sending the statistics to (or receiving the statistics at) a destination before the related broadcast content is broadcast. Applicants therefore respectfully submit that independent Claims 29, 46 and 63, and by dependency Claims 30-36, 47-53, 64-70, are also patentably distinct from Hendricks and Inoue, taken individually or in combination, for at least the reasons given above with respect to independent Claim 11.

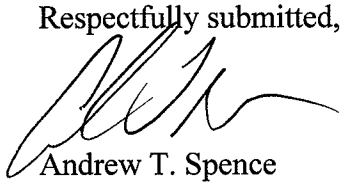
For at least the foregoing reasons, Applicants respectfully submit that the rejection of Claims 11-19, 29-36, 46-53 and 63-70 as being unpatentable over Hendricks, in view of Inoue is overcome.

CONCLUSION

In view of the amendments to the claims, the added claim, and the remarks presented above, Applicants respectfully submit that the present application is in condition for allowance. As such, the issuance of a Notice of Allowance is therefore respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicants' undersigned attorney in order to resolve any remaining issues.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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